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CROSS-EXAMINATION

BY MS. NEDA:

Q. Mr. Rodella, you said you provided
information that resulted in a supplemental report
being prepared?

A. That's correct, Ms. Neda.

Q. Did you prepare that supplemental report?

GOVERNMENT
EXHIBIT

5

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1 A. Yes, I did.

2 Q. And you signed it?

3 A. Yes, I did.

4 Q. Okay. Now, are you 100 percent certain
5 that your dad did not draw his firearm?

6 A. I'm 110 percent sure, Ms. Neda.

7 Q. And do you recall saying in your signed
8 statement that "While walking in front of the green
9 Mazda, I observed the male subject grabbing at my
10 father's drawn sidearm"?

11 A. Yes, I did write that. I never saw him
12 draw the firearm. It was already drawn by the time
13 I got to the car.

14 Q. Okay. So you don't know when he drew it.

15 A. I do not know.

16 Q. Okay. Now, you recall the interview with
17 Agent McCandless, you indicated.

18 A. Yes, I remember.

19 Q. He's an FBI agent.

20 A. Yes, ma'am.

21 Q. And he said, "But he never once draws his
22 weapon, even with a car hitting -- car darned near
23 hitting him, he never draws his weapon," and you
24 said, "No." Did you mean to say no?

25 A. I meant to say no. I never saw him draw

1 it out.

2 Q. Now, when you were interviewed, do you
3 remember that you wanted to read the supplemental?

4 A. I recall.

5 Q. Is that because you really didn't write
6 it?

7 A. I did write it.

8 Q. You know it's almost identical to your
9 father's supplemental; right?

10 A. I recognize that.

11 Q. The question was: You know it's almost
12 identical.

13 A. I'm sorry, I'm a little hard of hearing.

14 Q. I'm sorry. You know that your father's
15 account of this event and your account of this event
16 in the two separate supplementals are nearly
17 identical.

18 A. Yes, I recognize that, because it was the
19 same incident.

20 Q. Now, also, didn't FBI Agent Drew
21 McCandless ask you if you would take him to the
22 place where this happened to search for the white
23 car in that little neighborhood there?

24 A. I remember him bringing up that point.

25 Q. You brought it up twice; right?

1 A. I'm not too sure how many times.

2 Q. Okay. And when he brought it up, you
3 declined; right?

4 A. I did not decline. I said it would be
5 hard to do so.

6 Q. It would be hard to do so, but today
7 you're 100 percent certain where the event occurred;
8 right?

9 A. Yes.

10 Q. But you weren't 100 percent certain then.

11 A. I was 100 percent certain of where it
12 happened. I was not 100 percent sure that we'd find
13 the car.

14 Q. Did you also indicate in your interview
15 that you and your father were concerned that the
16 victim Michael Tafoya might be drunk?

17 MR. GORENCE: Your Honor, he's not a
18 victim. That's what this case is about. And Ms.
19 Neda has been -- could you instruct her not to use
20 that term again?

21 THE COURT: Well, don't use it at this
22 point. I'll allow you to use it in argument. But
23 let's don't use it in cross-examination.

24 Q. (By Ms. Neda) My question again is: You
25 were concerned that Michael Tafoya might be drunk?

1 A. That was one of the concerns, yes.

2 Q. But no one conducted a sobriety test of
3 Michael Tafoya, at least in your presence?

4 A. That wasn't the main reason for pulling
5 him over. We weren't sure what was going on. That
6 was one of the assumptions. But it wasn't
7 recognized that there was alcohol on his breath or
8 any identification of him being drunk.

9 Q. What about drugs? Can you smell drugs?

10 A. Marijuana you can, but I'm not too sure
11 about other drugs.

12 Q. Okay. So no one conducted a sobriety
13 test, is that right, at the scene?

14 A. That's correct. From what I understand,
15 the officers didn't see it necessary because they
16 didn't see any signification that he was under the
17 influence.

18 Q. And you know that because you have read
19 their interview reports and talked to them?

20 A. No, I have not talked to them about this.

21 Q. Then why are you testifying that they
22 didn't see anything and that they determined it was
23 not necessary?

24 MR. GORENCE: Your Honor, I'm going to say
25 that's improper. She asked the question --

1 THE COURT: It's a proper cross.
2 Overruled.

3 Q. (By Ms. Neda) Do you understand that
4 question? You just said what law enforcement
5 officers decided to do and why they decided to do
6 it. How do you know that, if you never talked to
7 them?

8 A. Because I was at the same scene.

9 Q. And they all said it was not necessary to
10 conduct a sobriety test in your presence?

11 A. Yes, assuming that it was unnecessary
12 because it wasn't conducted.

13 Q. I didn't ask you whether or not it was
14 conducted. We know it was not conducted. My
15 question is: You are talking about the state of
16 mind of various police officers. I'm asking you
17 what your basis for testifying to that is, if you
18 never talked to them about this or read their
19 interview reports.

20 A. I'm not sure what you're asking, ma'am.

21 Q. But you're 100 percent sure that in their
22 mind they felt it unnecessary to conduct a sobriety
23 test.

24 A. I didn't see them conduct it, so I didn't
25 feel that they saw it necessary to, since they

1 didn't conduct it.

2 Q. Okay. You also, when you were
3 interviewed, stated you didn't have a gun on you
4 that night; right?

5 A. No, I did not have a weapon.

6 Q. Okay. Now, you're aware now that
7 Lieutenant Randy Sanches has testified he saw you
8 with your weapon that night; right?

9 A. Excuse me?

10 Q. Lieutenant Randy Sanches testified he saw
11 you with the weapon. Do you remember that?

12 MR. GORENCE: I'm just going to object,
13 Your Honor. He said he has a weapon. He didn't
14 testify he had one that day.

15 THE COURT: I'll let you clear it up on
16 redirect.

17 Ms. Neda.

18 Q. (By Ms. Neda) Lieutenant Randy Sanches --
19 do you know that he testified he saw you with your
20 weapon that night?

21 A. I was not aware of that, no.

22 Q. Okay. And as a matter of fact, it is a
23 black square semiautomatic pistol.

24 A. It's not square.

25 Q. Okay. Is it a black semiautomatic pistol?

1 A. Yes, it is.

2 Q. Now, you say you didn't have it that
3 night; right?

4 A. That's correct.

5 Q. So Sanches is wrong; right?

6 A. Yes.

7 Q. Okay. Now, haven't you stated in the past
8 that you are hypervigilant and you actually sleep
9 with your gun and that you have obsessive rituals
10 about it?

11 MR. GORENCE: What page are you on,
12 Counsel?

13 MS. NEDA: 197.

14 A. That's from a medical record.

15 Q. (By Ms. Neda) Sure is. But we'll get
16 into that a lot more, but did you report that you
17 sleep with your gun, you're so hypervigilant?

18 A. Yes, I do. That's a true statement.

19 Q. Yes. All right. But on this particular
20 night you weren't feeling so hypervigilant.

21 A. I didn't have my weapon because we were
22 just coming back from filing for candidacy. I can't
23 carry a weapon inside the courtroom where they were
24 filing for candidacy, so I didn't see it necessary
25 for me to take a weapon.

1 Q. And you can't leave a gun in the car? Is
2 that unlawful?

3 A. I just didn't take it.

4 Q. Okay. But you sleep with it.

5 A. Yes, I do.

6 Q. Now, also in your interview, you said that
7 you told Agent Drew McCandless that when you both
8 stopped on the side of 339, you could see through
9 your rear-view mirror that Michael Tafoya was
10 telling you guys to come on; is that right?

11 A. He was telling my dad, as my dad exited
12 the vehicle.

13 Q. "Come on." Right?

14 A. I couldn't see what he was saying. I just
15 said that -- I saw a gesture that he was using his
16 hands.

17 Q. To come on. Is that what you told Drew
18 McCandless, who's an FBI agent?

19 A. I'm not too sure.

20 Q. Okay. Is that a correct statement?

21 MR. GORENCE: Counsel, what page, please?

22 Q. Is it a correct statement?

23 MR. GORENCE: Your Honor, she's referring
24 to --

25 MS. NEDA: Your Honor, when I quote

1 something --

2 THE COURT: When she quotes, she'll give
3 you the page. She's not right now. Overruled.

4 Q. (By Ms. Neda) Is that a correct
5 statement, that you saw in your rear-view mirror
6 Michael Tafoya motioning to your dad to come on?

7 A. I saw him make a gesture as if to say,
8 "Come on."

9 Q. Okay. And did you also later say in your
10 interview that you felt that Michael Tafoya was
11 egging on you, egging on? Did Agent McCandless ask
12 you that question?

13 A. I don't recall that verbiage, no.

14 Q. Okay. Did he ask you, were you -- are you
15 saying that Michael Tafoya was egging you guys on?
16 Do you remember that question?

17 A. I don't really recall that question, no.

18 Q. Okay. Were you? Did you interpret
19 Mr. Tafoya as egging you and your father on?

20 A. I never felt egged on. My dad was the
21 only one outside of the vehicle, so I would take it
22 as him calling on my dad.

23 Q. Okay. And on page 44, Counsel, McCandless
24 says, "So he's actually trying to egg you guys on?"

25 Junior, you: "Yeah. Yeah."

1 So do you agree with that? That's how you
2 were interpreting what Michael Tafoya was doing?

3 A. That he was egging my dad on, yes.

4 Q. The question was, "You guys," by the way.

5 Okay. So he's egging on your dad. Now,
6 you have severe blurring. You reported that to the
7 VA medical folks; right?

8 A. I'm sorry, I didn't hear that. Severe --

9 Q. Sure. Your vision is severely blurred;
10 right?

11 A. It is somewhat blurred, yes.

12 Q. Okay. But you could look through your
13 rear-view mirror and see Michael Tafoya egging on
14 your father; right?

15 A. With corrective lenses, yes.

16 Q. And Michael Tafoya was inside the car;
17 right?

18 A. Yes, he was.

19 Q. Let me go through a few more things. But
20 first, you testified that you are taking medication
21 merely for headaches; right?

22 A. That certain medication for my TBI is for
23 headaches, yes.

24 Q. Okay. Now, one of the medications you're
25 taking -- and you were taking this on March 11 and

1 you're still taking it -- is bupropion; right?

2 A. That's correct.

3 Q. That's B-U-P-R-O-P-I-O-N; right?

4 A. Something like that, yes, ma'am.

5 Bupropion.

6 Q. You must realize that bupropion is not for
7 headaches. It's used for treating psychiatric
8 disorders; right?

9 A. Yes. But I only indicated that propranolol
10 was only for my headaches resulting from the TBI.

11 Q. In fact, you are suffering from a
12 psychiatric disorder; isn't that correct?

13 A. Yes, I do suffer from PTSD.

14 Q. In fact, you know that the United States
15 dismissed you from this indictment when it
16 discovered you had mental defects; is that correct?

17 MR. GORENCE: Your Honor, that's not -- I
18 think that was -- that's inappropriate. She's
19 testifying.

20 THE COURT: He can answer the question, if
21 he can. Overruled.

22 Q. (By Ms. Neda) Is that right?

23 A. Can you ask again? I'm sorry.

24 Q. You know that the United States moved to
25 dismiss because it learned of your mental problems;

1 right?

2 A. I didn't fully understand why the charges
3 were dropped, just that I couldn't make a mental
4 decision or something like that.

5 Q. Okay. And as the final order reads, you
6 were dismissed in the interests of justice; right?

7 A. I believe that's what it says, yes.

8 Q. And it was the United States that moved
9 for that dismissal; right?

10 A. That's what I understand, yes.

11 Q. Now, there are major -- well, let me first
12 say, you know that the use of bupropion is indicated
13 for the treatment of major depressive disorders;
14 right?

15 A. I'm not too sure about what it does. It
16 was just diagnosed for my PTSD.

17 Q. Okay. But it's not a headache medicine,
18 sir. It's a psychiatric drug that affects your
19 mind, isn't it?

20 A. I never called it a headache medicine.

21 Q. Okay. But am I right about the rest of
22 it? It's a psychiatric medicine that affects your
23 mind?

24 A. It's a psychiatric medicine, yes.

25 Q. And that's not the only psychiatric

1 medicine you're taking; right?

2 A. That's correct.

3 Q. And you were taking these drugs on March
4 11; is that right, sir?

5 A. Yes.

6 Q. And you're still taking these drugs today.

7 A. I have kind of slowed back on them, yes.

8 Q. You're taking them right now. You're on
9 them right now.

10 A. I have only taken propranolol today.

11 Q. Okay. Well, let's go to -- what do you
12 mean, today? When is the last time you took
13 bupropion?

14 A. Over a month ago.

15 Q. And what about Remeron?

16 A. Excuse me?

17 Q. Remeron. You're also taking that; do you
18 know that? It's also called Mirtazapine?

19 A. The Mirtazapine? Yes.

20 Q. Yes. I'm sorry, I mispronounced it.
21 You're taking that, as well?

22 A. That's a nighttime drug.

23 Q. And that's for a major depression
24 disorder, not for a headache; right?

25 A. My doctor made me understand that it was

1 for nightmares.

2 Q. Okay. But in any event, what these drugs
3 do is cause confusion; is that right?

4 MR. GORENCE: Your Honor, there's no
5 foundation for that.

6 THE COURT: Well, if he knows.

7 Q. (By Ms. Neda) If you know, does it cause
8 confusion?

9 A. I have never had confusion resulting from
10 these drugs, no.

11 Q. We'll get into your confusion.

12 MS. NEDA: But Your Honor, this is a PDR
13 from which I'm reading, and the Court is entitled to
14 take judicial notice of what I'm stating. Under --
15 if I may grab my -- under Rule 201(b)(2) -- and I
16 have a Tenth Circuit case -- we take judicial notice
17 of the Feldene medication with anti-inflammatory
18 qualities and properties from the PDR. In other
19 words, taking the PDR's content under judicial
20 notice. So at this time, I can cite the case Purkey
21 versus Green, Tenth Circuit, 2001, 28 Fed Appx. 736.

22 I have another one, but I think that's
23 sufficient and I do cite to the Court 201(b)(2).

24 MR. GORENCE: Your Honor, if I could
25 respond, I have no doubt that a Physician's Desk

1 Reference is authoritative. The case law then says
2 you have to look at that along with dosage units and
3 have expert testimony. Right now, Ms. Neda is
4 not -- I mean, you can talk about generic principles
5 of the drug, but as applied to an individual, what's
6 important is the quantity, when, where, and usually
7 it's the dosage, how many milligrams are being
8 prescribed. That's what the case law says for which
9 Ms. Neda is -- we don't have any information as
10 applied to this patient. So therefore, that's why
11 it's not authoritative.

12 MS. NEDA: Mr. Gorence is referencing
13 803/18. I'm not. I'm relying --

14 THE COURT: I'm not going to take judicial
15 notice of this fact.

16 MS. NEDA: Okay.

17 Q. (By Ms. Neda) I will continue with
18 bupropion. Are you aware that bupropion causes
19 delusions?

20 MR. GORENCE: Again, my only objection is
21 that until she quantifies this with dosage units --

22 THE COURT: No, she can ask the question
23 the way she wants. Overruled.

24 MR. GORENCE: Okay.

25 Q. (By Ms. Neda) Are you aware that

1 bupropion causes delusions?

2 A. I'm not aware of that.

3 Q. What about hallucinations? Are you aware
4 of that?

5 A. No, I'm not.

6 Q. But you have suffered hallucinations,
7 haven't you?

8 A. No.

9 Q. And delusions?

10 A. No.

11 Q. Didn't you tell the VA medical staff on
12 repeated occasions that you were in 60 air assaults?

13 A. Yes.

14 Q. But you weren't. Do you know that?

15 A. Yes, I was.

16 Q. You also told the VA medical staff that
17 you were in a whole bunch of fire fights; right?

18 A. I don't recall saying that I was in fire
19 fights. I was around when people were firing.

20 Q. You weren't in any fire fights; right?

21 A. I never returned fire.

22 Q. Because you saw the interview. Did your
23 counsel show you the interview of your commanding
24 officer, Sergio Hand?

25 THE COURT: Hold on. Mr. Gorence.

1 MR. GORENCE: May we approach, Your Honor?

2 THE COURT: You may.

3 (The following proceedings were held at
4 the bench.)

5 THE COURT: Bring your case up here, too.
6 I'll be glad to look at your case. I'm not familiar
7 with the criminal case, the court taking judicial
8 notice of a fact, but I'd go glad to take a look at
9 it. But you have an objection.

10 MR. GORENCE: Well, just a couple of
11 things. I'm not his lawyer, of course. Mr. Bowles
12 is here. After the dismissal, I don't think
13 Mr. Bowles received discovery. I know his
14 commanding officer -- that interview was done on
15 August 25th, and I don't know when I received it,
16 but I would like -- I don't think Mr. Bowles got it.
17 I don't know if he's even seen it.

18 Next I'm only concerned on hearsay, if
19 they want to call him, but they can't say, you have
20 seen it, and try to elicit statements from -- it's
21 actually not quite his commanding officer, what I
22 understand. But I don't know. But these are going
23 to be eliciting hearsay statements and I don't want
24 to get -- my concern is she's going to say, "Isn't
25 it true your commanding officer said this, or said

1 this."

2 THE COURT: Don't do that.

3 MS. NEDA: Uh-huh.

4 THE COURT: But the question that's here
5 right at the moment is an appropriate question, but
6 do avoid with your questions testifying about
7 hearsay statements.

8 MS. NEDA: I will. But Your Honor, I do
9 need to explore this, because it demonstrates lack
10 of --

11 THE COURT: I'm not shutting you down.
12 I'm not shutting you down. But be careful with
13 hearsay statements. We don't need to have you
14 testifying, getting those statements out if they're
15 not admissible and there's no basis for him knowing
16 about it.

17 MS. NEDA: May I ask him if he has seen it
18 and he agrees?

19 THE COURT: Yes. Your question is
20 appropriate.

21 MS. NEDA: Okay.

22 MR. PENA: Should I provide the case law
23 on the --

24 THE COURT: Yes, if you got it, I'll take
25 a look at it. Sure.

1 MR. PENA: So we've got the citation the
2 Perky versus Green, which is 28 Fed. Appx. 736, star
3 4, note 4. That's the Tenth Circuit 2001 case.

4 THE COURT: Okay.

5 MR. PENA: We have other -- just one
6 other. US versus Moseley, 672 fed 3d 586, at 591,
7 which is an Eighth Circuit 2012 case.

8 THE COURT: All right.

9 (The following proceedings were held in
10 open court.)

11 THE COURT: All right, Ms. Neda.

12 MS. NEDA: Thank you, Your Honor.

13 Q. (By Ms. Neda) I was asking you if you
14 have been shown your commanding officer's interview
15 named Captain Sergio Hand.

16 A. I have never seen a copy of it, but I have
17 heard about it.

18 Q. So you know what he says.

19 A. I got just the gist of it.

20 Q. And you still say today under oath that
21 you have been in fire fights?

22 A. Excuse me?

23 Q. And you still say today you have been in
24 fire fights?

25 A. I have never returned fire, but I have

1 been fired upon, yes.

2 Q. And does anybody say that's true, besides
3 you?

4 A. Yes.

5 Q. Sergio Hand?

6 A. There's a soldier over there that was
7 deployed with me.

8 Q. And the 60 air assaults? What about the
9 60 air assaults? You did those, as well?

10 A. Yes.

11 Q. This wasn't a war; this was 2011 in
12 Kosovo; is that right?

13 A. That's correct.

14 Q. Okay. Now, do you also believe that you
15 were in Iraq?

16 A. I never said I was in Iraq.

17 Q. Okay. Did you ask to look into filing a
18 claim for being subjected to chemicals in Iraq?

19 A. I never said I was in Iraq.

20 Q. Okay, but that was not my next question.
21 My next question: Did you ask to look into a -- to
22 file a claim for chemical exposure in Iraq?

23 A. I never said I was in Iraq, but yes, I did
24 look for a registry that I had seen on TV about
25 being introduced to chemical...

1 Q. Okay. Now, you have repeatedly reported
2 that your concentration is very poor. You rate it
3 as severe. Do you agree that you reported that?

4 A. Before I got on medication, yes.

5 Q. Well, no, you have been on medication --
6 you were on medication in March 2014; right?

7 A. I should have been, yes.

8 Q. You were on. The most recent statement
9 was June 2014. Did you make that -- that you have
10 severe concentration problems?

11 A. Sometimes I do, yes.

12 Q. Severe?

13 A. When they happen, yes.

14 Q. In fact, in that same session, did you not
15 report that your irritability gets really bad and
16 it's a problem always? Did you tell them that?

17 A. Yes.

18 Q. You're easily annoyed; is that correct?

19 A. Some instances, yes.

20 Q. Well, not some. Didn't you say that
21 "That's pretty much everything I do. I suffer from
22 those problems," quote/unquote. "Pretty much
23 everything I do"?

24 A. Yes.

25 Q. Okay. And also in your life, pretty much

1 everything you do, you suffer from the poor
2 concentration that we've already talked about;
3 right?

4 A. Oh, yes.

5 Q. Okay. And then you have problems with
6 your memory. Although I heard you testify earlier
7 you don't, but you have difficulties with your
8 memory, don't you? Both short- and long-term and
9 you have reported that, didn't you?

10 A. Not that I recall, no.

11 Q. Okay.

12 MR. GORENCE: Your Honor? At this point
13 can I get a copy of the -- can we approach for a
14 second?

15 THE COURT: You may.

16 (The following proceedings were held at
17 the bench.)

18 THE COURT: Do you have a copy of it?

19 MR. GORENCE: I know they were provided to
20 Mr. Bowles and then the case was dismissed. I have
21 never seen the medical reports and she's
22 cross-examining on it, and I would like all of them.

23 MS. NEDA: That's right, I am
24 cross-examining him. I gave it to Mr. Bowles and I
25 said, "Please give this to Mr. Gorence. I don't

1 want to make that decision of invading the privacy
2 of his client."

3 Now, you know Mr. Bowles and Mr. Gorence
4 work together. And you know Mr. Gorence knew full
5 well I was going to come in here with this
6 information. So once again, my direct
7 examination -- excuse me, my cross-examination --

8 THE COURT: Mr. Bowles? Mr. Bowles?

9 MR. BOWLES: Yes, Your Honor.

10 (Mr. Bowles approached the bench.)

11 THE COURT: Do you have them in a nice
12 little set I could Xerox?

13 MS. NEDA: I don't. I have one set.

14 THE COURT: Do you have a set, though,
15 that you can hand --

16 MS. NEDA: It's this, and I have it all
17 tabbed. So Mr. Bowles can provide a set if he has
18 it.

19 THE COURT: Do you have any problem with
20 the Government giving Mr. Gorence a copy of
21 Mr. Rodella, Jr.'s medical records?

22 MR. BOWLES: No, Your Honor.

23 THE COURT: All right. Well, I got to get
24 a set into his hands. Do you have the set that was
25 given to --

1 MR. BOWLES: I do, and they're at my
2 office.

3 THE COURT: At your office?

4 MR. BOWLES: I could have somebody get
5 them. They're at the Bank of the West. I could
6 have somebody bring them over.

7 THE COURT: Can you do that? Is it a
8 complete set? It's pretty intact?

9 MR. BOWLES: Yes, Your Honor. Ms. Neda
10 e-mailed those to me, so I could just hit the
11 attachment. I think they're already printed.

12 THE COURT: Are you going through the
13 medical records right now?

14 MS. NEDA: That's what I'm doing right
15 now.

16 THE COURT: Was it sent by e-mail?

17 MS. NEDA: Yes.

18 THE COURT: Can you just have them e-mail
19 it to her? Can you have somebody e-mail it to
20 Ms. Wild.

21 MS. NEDA: I would prefer Mr. Bowles do
22 that.

23 MR. BOWLES: I can do that.

24 THE COURT: You can have it e-mailed to
25 Ms. Wild. Send it protected. We'll print it out

1 for you.

2 MR. GORENCE: That's all I want.

3 THE COURT: In the meantime, if you need
4 to look at a medical thing, medical document, so we
5 don't slow down, and have anything, if you need to
6 see it, you'll just have to show it to him until we
7 get it over here.

8 MS. NEDA: That's going to ruin my flow,
9 Your Honor, as I'm sure you well know.

10 THE COURT: Well, I'm trying to avoid
11 that. Be judicious in what you ask for.

12 MS. NEDA: I would rather do a break
13 instead, Your Honor. This is cross-examination.
14 There's no requirement that I give it to him, but I
15 did give it to Mr. Bowles, telling him if he wished,
16 he could give it to Mr. Gorence.

17 THE COURT: Hold on a second. Let's not
18 waste Mr. Bowles' time.

19 Why don't you go make that call real quick
20 and get it here.

21 MR. GORENCE: I would just like -- if
22 she's referring to them as if they're fact, I need
23 to see that, Your Honor, and I didn't -- I just
24 don't have a copy. I have never been provided a
25 copy by Mr. Bowles.

1 THE COURT: Let me do this. To keep
2 things moving a little bit, what do you got, maybe
3 like 20 you're going to go through, the next ten, or
4 something like that? If you just got a few, I could
5 make, you know, seven or eight pages --

6 MS. NEDA: There's a lot. There's a lot,
7 Your Honor.

8 THE COURT: Well, I know there's a lot.
9 But I mean, do you have them in sort of an order
10 that you're using so that we could just make a quick
11 set?

12 MS. NEDA: Your Honor, there are a lot of
13 quotes. There's cross checks. I want to make
14 certain that I put the proper time frame when he
15 makes these complaints. Mr. Gorence, as long as
16 Mr. Bowles doesn't object, can have a full set, and
17 if I quote -- if I quote --

18 THE COURT: I'm not saying to get him a
19 full set. I'm wondering, so we can keep things
20 moving along, if you're going to question him about,
21 you know, the next ten pages, Ms. Wild could go take
22 those ten and make a quick copy.

23 MS. NEDA: Yes. And I understand exactly
24 what you're saying. But that's not the way it is.

25 THE COURT: So what do you want to do?

1 Keep questioning and --

2 MS. NEDA: No. If it's permissible, maybe
3 can he -- it doesn't take long to have it e-mailed
4 and printed. Maybe we should just take a 15-minute
5 break and permit Mr. Gorence to get a complete copy,
6 because I'm going to be going back and forth from
7 one page to the next, and only at times do I quote
8 it, does he really need it, and I haven't yet really
9 quoted much.

10 THE COURT: Okay. All right.

11 MS. NEDA: And in the meantime, Your
12 Honor, I don't want to be presumptuous, but maybe we
13 could take a look at the PDR issue.

14 THE COURT: PDR.

15 MR. GORENCE: The Physician Desk
16 Reference.

17 THE COURT: Okay.

18 (The following proceedings were held in
19 open court.)

20 THE COURT: All right. Let's take a short
21 break. We need to get some documents in everybody's
22 hands here, so we'll be in recess for a few minutes.
23 All rise.

24 (Non-testimony material deleted.)

25 THE COURT: All right. Everyone be

1 seated.

2 All right, Ms. Neda, if you wish to
3 continue your cross-examination.

4 Mr. Rodella, I remind you you're still
5 under oath.

6 THE WITNESS: Yes, Your Honor.

7 CONTINUED CROSS-EXAMINATION

8 BY MS. NEDA:

9 Q. Mr. Rodella, since everything's gotten a
10 little disjointed here, let me just ask you again,
11 you have complained repeatedly of poor concentration
12 to your doctors, your psychiatrists; right?

13 A. Yes, I have.

14 Q. And you have indicated it's very difficult
15 for you to do day-to-day tasks because of that.

16 A. Yes.

17 Q. And it's difficult for you to get along
18 with people at times.

19 A. Sometimes, ma'am.

20 Q. And you have indicated that you -- if you
21 had to classify, you would classify it as severe.
22 Your poor concentration.

23 A. Most of the time, yes, ma'am.

24 Q. Okay. With respect to your irritability,
25 at times that really gets bad; right?

1 A. Sometimes, yes, ma'am.

2 Q. And when you classify it, you classify it,
3 your irritability, as severe; is that right?

4 A. Yes, most of the time, yes, ma'am.

5 Q. And you have indicated that your -- just
6 like your severe poor concentration problem, your
7 severe irritability problem affects you in your life
8 in pretty much everything you do.

9 A. Yes, most things I do, yes, ma'am.

10 Q. Now, let's move on to your memory. You
11 have problems with your memory; right?

12 A. Not too much, ma'am.

13 Q. Okay. Let me go through that then slowly.
14 My slight delay is because of all the argument going
15 on while the jury was out, I don't have my notes.

16 So just give me a second here. All right.
17 Let's move on to memory. Let's see. You have
18 reported memory problems to your psychiatrist.

19 A. I had, and they gave me an initial test,
20 and they found nothing wrong with my memory, ma'am.

21 Q. Okay. Go to -- well, as of January 2014,
22 you said they found no problem with your memory?

23 A. That's what the doctor had told me, ma'am.

24 Q. Are you sure they did not find an
25 impairment of short- and long-term memory?

1 A. Not to my recollection, ma'am. He said
2 there was nothing wrong with my memory.

3 Q. Okay. Would it help if you looked at that
4 to refresh your recollection?

5 A. It might.

6 MS. NEDA: If I may approach?

7 THE COURT: You may.

8 MR. GORENCE: May I see what you're
9 showing him?

10 MS. NEDA: Page 201.

11 Q. (By Ms. Neda) I highlighted it. It
12 doesn't look like this in the real one. But you see
13 that impairment of short- and long-term memory?
14 Does that refresh your recollection? Forgetting to
15 complete tasks?

16 MR. GORENCE: Could I ask, Your Honor, is
17 this Bates-stamped -- page 201 or Bates-stamped 201?
18 I didn't hear that.

19 THE COURT: Page 201.

20 MS. NEDA: Page 201.

21 MR. GORENCE: But on every one I have it
22 says Rodella, Junior, and it's got a page on the
23 bottom.

24 MS. NEDA: Page 201 is all I have, I'm
25 sorry.

1 Q. (By Ms. Neda) Does it say that? And let
2 me ask you this: Does this refresh your
3 recollection?

4 A. Under the symptoms, but -- after the test
5 I remember them saying nothing was wrong with my
6 memory.

7 Q. All right. Now, you startle easily, is
8 that right?

9 A. Excuse me, ma'am?

10 Q. You startle easily, get scared easily?

11 A. Startle?

12 Q. Yes. Do you know what I mean by that
13 word?

14 A. Yes. Sometimes I do, yes, if there's a
15 loud noise, yes.

16 Q. When there are noises?

17 A. Loud noise like a bang or a shutting door
18 or something like that.

19 Q. All right. Now, we discussed your
20 irritability, but also did you report -- you
21 reported a problem with frustration, tolerating
22 frustration; right?

23 A. I'm having trouble hearing some of the
24 stuff you're saying.

25 Q. I'm sorry. And that might be because I'm

1 not right next to the microphone. Have you reported
2 troubles controlling your frustration?

3 A. There were times at the beginning, yes.

4 Q. Okay. Well, let me get current. Now, did
5 you report having -- we've already talked about
6 irritability, but also having angry outbursts? Did
7 you report that to your psychiatrist?

8 A. If I did, it was very few times.

9 Q. Very few times?

10 A. Yes, ma'am.

11 Q. Well, did you remember ranking it as to
12 from -- with 5 being extreme, and you indicated it
13 was 5?

14 A. I believe maybe at the time it was a 5.
15 I'm not too sure, ma'am.

16 Q. All right. Excuse me. And have you
17 reported that your irritability and your angry
18 outbursts can come about with little or even no
19 provocation? Have you reported that to your
20 psychiatrist?

21 A. Yes, I believe at that time it was
22 occurring, yes, ma'am.

23 Q. And have you said that no one can be
24 trusted, the world is completely dangerous?

25 A. I'm sorry, ma'am?

1 Q. The world is completely dangerous? Have
2 you said that?

3 A. The world is completely dangerous?

4 Q. Yes.

5 A. I don't remember using that verbiage, no.

6 Q. Well, is that why you sleep with your gun?
7 Because the world is very dangerous?

8 A. It's just a coping mechanism.

9 Q. Okay.

10 THE COURT: Ms. Neda, when you get to a
11 place, do you want to take a break?

12 MS. NEDA: I can take one now, sir.

13 THE COURT: All right. Let's shoot for
14 about 1:10, 1:15 to bring you back from lunch.
15 We've gone a little past noon. I'm going to talk to
16 the lawyers for a little bit.

17 (Non-testimony material deleted.)

18 THE COURT: All right, everyone be seated.

19 All right, Mr. Rodella. I'll remind you
20 you're still under oath.

21 THE WITNESS: Yes, Your Honor.

22 THE COURT: Ms. Neda, if you wish to
23 continue your cross-examination of Mr. Rodella, you
24 may.

25 MS. NEDA: And I will be brief. Thank

1 you.

2 CONTINUED CROSS-EXAMINATION

3 BY MS. NEDA:

4 Q. Just as an initial matter, Mr. Rodella, we
5 just had a hour, maybe hour-ten break. You didn't
6 visit with the defense attorneys about your
7 testimony, did you, during that break?

8 A. No, ma'am.

9 Q. Okay. Now, the other thing is, I'd like
10 to cover -- you indicated you live with your father
11 and your mother?

12 A. I'm sorry, I couldn't hear you.

13 Q. Did you indicate you lived with your
14 father and your mother?

15 A. That's correct.

16 Q. And your dad supports you; right?

17 A. No.

18 Q. How much do you make?

19 A. Just a drill check.

20 Q. That's \$300 a month; right?

21 A. Roughly, yes.

22 Q. And so you live on \$300 a month?

23 A. Yes.

24 Q. Now, do you recall being interviewed in a
25 criminal investigation by the New Mexico State

1 Police in 2010, Sergeant Ken Olsen?

2 A. What was the original question, I'm sorry?

3 Q. Do you recall being interviewed by
4 Sergeant Ken Olsen of the New Mexico State Police in
5 a criminal investigation?

6 A. I remember being interviewed.

7 Q. Okay. And you lied to him, didn't you?

8 A. No, I didn't.

9 Q. I want to go back to the Iraq thing. I
10 believe I'm unclear what you said. You have never
11 been to Iraq; right?

12 A. I have never been to Iraq.

13 Q. You didn't serve this country in Iraq?

14 A. No.

15 Q. Okay. However, you asked your
16 psychiatrist how you could sign up for the registry
17 about being exposed to burning refuse in Iraq. You
18 sign up. Why would you do that, if you were not in
19 Iraq?

20 A. It was part of the Operation Enduring
21 Freedom, Iraqi Freedom movement, and they have a
22 burn registry. If you were burning trash or exposed
23 to some chemicals, you could sign up and get checked
24 out. I was exposed to that, I was part of Operation
25 Enduring Freedom.

1 Q. That's what you think you were? That's
2 what you're thinking now, is that you were?

3 A. Oh, I was, ma'am.

4 Q. Okay. So you wanted to sign up for the
5 registry for being exposed to burning refuse in
6 Iraq.

7 A. No, it's part of the OIF, OEF, Iraqi
8 Freedom and Enduring Freedom. The Kosovo mission
9 falls under Enduring Freedom.

10 Q. So your psychiatrist has that wrong, you
11 didn't mean to say you wanted to enter the registry
12 for the Iraq war.

13 A. I never said anything about Iraq to her.

14 Q. Oh, you didn't? Or you just don't
15 remember?

16 A. I have never been to Iraq, and I don't
17 think I would bring up Iraq to my psychiatrist,
18 ma'am.

19 Q. Okay. All right.

20 Well, let's see. Going back to your
21 frustration tolerance, you did say that you do have
22 poor frustration tolerance, right? Poor frustration
23 tolerance?

24 A. At one point, I did, yes, ma'am.

25 Q. And you also have reported, as recently as

1 January 2014, angry outbursts where there's no
2 provocation; right? Angry outbursts where there's
3 no provocation.

4 A. At that point in time, yes, ma'am.

5 Q. Okay. Also, as of January 2014, you
6 indicated that your unprovoked irritability leads to
7 periods of violence; is that right?

8 A. At that time, yes, ma'am.

9 Q. Okay. And also in January 2014, you
10 indicated that the drugs you were taking, the
11 Mirtazapine -- you know what I mean. You'll have to
12 give me that name.

13 A. I'm not sure which one.

14 Q. The -- I call it Remeron, the common name,
15 but it's the Mirtazapine?

16 A. The Mirtazapine.

17 Q. And the bupropion. Those two. You were
18 taking those in January 2014, among others; right?

19 A. I believe so, ma'am.

20 Q. And you indicated that those drugs did not
21 control the symptoms; is that right?

22 A. Not to my recollection, they weren't
23 helping.

24 Q. They weren't helping.

25 A. No.

1 MS. NEDA: All right. And that's all I
2 have for you, thank you.

3 THE COURT: Thank you, Ms. Neda.

4 Mr. Gorence, do you have redirect of
5 Mr. Rodella?

6 MR. GORENCE: I do, Your Honor.

7 THE COURT: Mr. Gorence.

8 REDIRECT EXAMINATION

9 BY MR. GORENCE:

10 Q. Mr. Rodella --

11 MR. GORENCE: Counsel, I have got these
12 marked as O, parts of the medical records. O is
13 page 45 and we'll go through O2 is page 75 through
14 77. O3 is 107, the complete consult, to 113. O4 is
15 the August 4 complete consult, August 4, 2014, 119
16 through 121. And O5 is the complete diagnostic
17 summary for the PTSD, pages 191 through 205. That's
18 O5.

19 Q. (By Mr. Gorence) Sir, are these your --
20 look through -- I don't know -- are those your
21 medical records, Mr. Rodella?

22 A. Yes. Yes, sir.

23 MR. GORENCE: Your Honor, I move the
24 admission of those documents. And if -- I have
25 received them today, as the Court is aware --

1 MS. NEDA: Your Honor, we don't -- I would
2 ask that there be no speeches.

3 THE COURT: Why don't you approach and
4 we'll talk about this.

5 (The following proceedings were held at
6 the bench.)

7 THE COURT: Do you have any objection to
8 Exhibit O?

9 MS. NEDA: Oh, yes, Your Honor. These are
10 hearsay. Otherwise I would have put them in. Of
11 course, they can't come in. The first page, he went
12 so fast, I'm sorry, I don't have all the pages he
13 mentioned. But the first page is lab results, and
14 not relevant to what I was even talking about. It
15 has to do with screening, whether he has drugs or
16 other things in his system. I haven't seen the
17 other pages, but the clear interpretation -- all of
18 it is hearsay, so I would object to it. It's not
19 appropriate. And plus it far exceeds the
20 Government's cross-examination.

21 MR. GORENCE: Your Honor, I'll go through
22 line by line, as Ms. Neda has done, and read them.
23 But I don't have a problem if we admit every page.
24 But I want it with the understanding that it's
25 only --

1 THE COURT: Does that cure anything for
2 you?

3 MS. NEDA: It's too voluminous, 400 pages.

4 THE COURT: Sounds like you'll just have
5 to take them one at a time.

6 MR. GORENCE: But Your Honor, I'm going to
7 read them and we'll go through them one by one
8 because she's taken snippets, and I want to move --

9 THE COURT: You probably can't get the
10 medical records in.

11 MR. GORENCE: And I'll call a records
12 custodian. We can do it that way, if you don't want
13 to get them in through him. We'll call the medical
14 records right over from the VA.

15 THE COURT: You'll have to, if she's
16 making an objection to it.

17 MR. GORENCE: Okay.

18 (The following proceedings were held in
19 open court.)

20 MR. GORENCE: So I understand, the
21 Government's objection to these records is
22 sustained?

23 THE COURT: Sustained.

24 MR. GORENCE: Okay. Can I have a second,
25 Your Honor? In fact, I'm going to need just a

1 couple of minutes.

2 THE COURT: Okay.

3 Q. (By Mr. Gorence) Mr. Rodella, let me
4 start, what's the definition of an air assault?

5 A. Any mission using a helicopter for
6 insertion into the area of operations.

7 Q. And with that being the definition, did
8 you engage in air assaults while you were stationed
9 in that period of time in Kosovo?

10 A. At least two times weekly, yes.

11 Q. Okay. For a total -- two times you're up
12 in helicopters being inserted somewhere.

13 A. That's correct.

14 Q. Okay. Now, it might not have led to
15 assaultive conduct, but that constitutes an air
16 assault, being transported in a war zone by
17 helicopter?

18 A. Yes, that's correct.

19 Q. So if it's twice a week, did you do that
20 approximately the 60 to 80 times that you told
21 mental health practitioners at the VA here in
22 Albuquerque?

23 A. I did well over the 60 times that I
24 stated.

25 Q. Now, I asked you a question about a

1 statement to Mr. McCandless. I don't know if you
2 misunderstood me. You didn't write out a statement
3 that morning at 6:00 in the morning, on June 4, did
4 you?

5 A. No, I did not.

6 Q. But you agreed to a tape-recorded
7 interview with him.

8 A. I never agreed to it.

9 Q. Well, you know that it's 55 pages long,
10 you were being taped with your question and answer
11 with Mr. McCandless.

12 A. I'm aware of it after the fact, yes.

13 Q. Now, are you tested periodically, both at
14 the VA and with regard to the National Guard, with
15 regard to if you ever take marijuana, amphetamines,
16 barbiturates, benzodiazepines (sic), cocaine, opiates,
17 PCP -- which is phencyclidine -- methadone, or --
18 it's propoxyphene. Are you tested periodically for
19 that?

20 A. I'm subject to be tested every month, yes.

21 Q. And so you're tested every month as to
22 whether or not you take any illegal drugs?

23 A. I'm subject to test, yes.

24 Q. Okay, I get it. They don't do it every
25 month but it depends how it gets called up?

1 A. Yes, it's random.

2 Q. Okay. Random. But you get tested
3 periodically, and it's part of your VA records,
4 isn't it?

5 A. Oh, yes, every time there's a blood draw.

6 Q. And you have always been negative for any
7 illegal substance; is that a true statement?

8 A. That's correct.

9 Q. Now, these records -- and they total like
10 over 400 pages. I want to go to the most -- so back
11 on November 7th of 2012 -- and I believe Ms. Neda
12 asked you questions -- do you remember going there
13 that day? Let me have you look at this record to
14 see if this refreshes your recollection in its
15 entirety as to what happened. Take a look at that.

16 A. I recall this day, yes.

17 Q. Okay. I have some questions on it. So
18 this was one of the first days or actually the first
19 time you have a full neurological workup at the VA.

20 A. That's correct.

21 Q. And after providing the history of what
22 actually happened, you remember you gave them a
23 detailed history of your injury and what happened
24 after that on the first page. You remember seeing
25 that?

1 A. Yes.

2 Q. And they actually then performed on
3 again -- I want to get back -- this is November of
4 2012 -- what's called the Montreal Cognitive
5 Assessment. It's a diagnostic tool for
6 psychologists. Do you remember that?

7 A. Yes, I remember taking it.

8 Q. Okay. And we'll go through it, at least
9 the findings on this report. "Correctly performed
10 Alternative Trail-Making."

11 MS. NEDA: Your Honor, I'm sorry, but this
12 sounds like he's reading hearsay into the record.

13 THE COURT: Don't read hearsay into the
14 record.

15 MR. GORENCE: Okay.

16 Q. (By Mr. Gorence) Well, do you remember
17 passing all of that test?

18 A. Yes, I do.

19 Q. Okay. Were you informed of your score and
20 what that meant with regard to your cognitive
21 impairment?

22 A. Yes. As far as the score, he said my
23 cognitive abilities were in well stature.

24 Q. Okay. Actually, it said good stature, you
25 had slight cognitive impairment. That's it on that

1 date. Do you remember that?

2 A. Yes.

3 Q. Okay. Deficits only in the area of
4 language abstraction?

5 MS. NEDA: Your Honor, again, he's reading
6 into the --

7 THE COURT: Don't do it that way.

8 MR. GORENCE: Okay.

9 Q. (By Mr. Gorence) Were you informed --
10 Your Honor, okay.

11 Do you remember the second complete
12 evaluation occurring on September 27, 2012?

13 A. Yes, I do.

14 Q. And again at that time did you have a
15 provider being -- well, let me ask, who was your
16 doctor?

17 A. For the mental side, I think it's
18 Dr. Vigil.

19 Q. Yes. You had another test on that day.
20 You recall that?

21 A. Yes.

22 Q. And at the end of that, do you recall
23 whether there was an assessment plan implemented?

24 A. I think they asked me something about my
25 goals in life, and my plan to come back home and how

1 to get over this situation.

2 Q. Okay. And part of that -- did that
3 involve the medication that you have talked about
4 with Ms. Neda?

5 A. Yes. As well as some classes I took, some
6 one-on-one sessions with the psychologist.

7 Q. And then finally, did you have -- and the
8 date on this being in January of 2014 -- a complete
9 diagnostic workup for the purpose of the Veterans
10 Administration making a diagnosis as to whether or
11 not you actually had PTSD that conforms to what they
12 call DSM-V -- that's the Diagnostic Statistical --
13 Diagnostic Statistical Manual. That's the fifth
14 edition. Do you remember that?

15 A. Yes, I do.

16 Q. Tell the jury, now, that was a fairly
17 lengthy workup, wasn't it?

18 A. It took the better part of a day, yes.

19 Q. Do you remember -- so the better part of
20 the day -- that that included psychological testing?

21 A. It was some screening, yes. Done by a
22 doctor.

23 Q. Do you recall what the ultimate diagnosis
24 was on that day?

25 A. That I was -- that I did have PTSD, I

1 think was the conclusion.

2 Q. Okay. And according to the records, did
3 you have any cognitive ability to think -- as of
4 January 2014, did this affect your ability to --
5 what they call a cognitive assessment -- did it
6 affect your ability to think clearly and rationally
7 in any way?

8 A. No, it did not.

9 Q. And then you had a follow-up on August 4,
10 2014, so six days -- excuse me, 11 days before you
11 were arrested, you were back here in Albuquerque for
12 another follow-up?

13 A. Yes, that's correct. I have follow-ups
14 almost every three months.

15 Q. Okay. And were you told on that day that
16 your thought process was organized?

17 A. Yes, I think somewhere along those lines,
18 yes.

19 Q. That your cognition, which says -- this is
20 as of January -- recent remote memory was grossly
21 intact in terms of at least August of 2014, that
22 your cognitive ability was grossly intact. Was that
23 told to you?

24 A. It was discussed, yes.

25 Q. Was that -- and at this point it's not the

1 doctor, do you remember Elizabeth Davidson, your
2 psychiatrist?

3 A. Yes.

4 Q. And she told you that?

5 A. Yes, we have sessions every three months.

6 Q. And at that point, is that -- your
7 medicine had been actually diminished, was
8 diminished at that point; correct?

9 A. Yes. Lower dosages, yes.

10 Q. So given this little segue into your
11 medical history, does that modify in any way your
12 statements earlier that you knew exactly what was
13 going on on March 11, 2014?

14 A. I was fully cognitive.

15 Q. And these medications -- now, the one
16 that's hard to pronounce, bupropion?

17 A. Bupropion.

18 Q. That actually goes by a generic trade name
19 of Wellbutrin, doesn't it? Most people are familiar
20 with the term Wellbutrin?

21 A. Yes.

22 Q. Do you know -- have you ever looked at --
23 you were asked questions on a Physician's Desk
24 Reference. Have you ever looked at that in terms of
25 what goes on in potential side effects?

1 A. Yes, I have.

2 Q. Okay. And if you're familiar not only
3 with that, but I take it the National Institutes of
4 Health has websites that you can pull up and look at
5 this, as well. Are you familiar with that?

6 A. That's correct. And I have a cousin
7 that's actually a pharmacist.

8 Q. Okay. So when Ms. Neda was asking you
9 about side effects, it's actually listed as rare,
10 any confusion, false beliefs, it's a potential side
11 effect, but they list it as common, more common,
12 less common, rare, and then finally, incidence not
13 known. Are you familiar with that's their grading
14 scale?

15 A. Yes, I am.

16 Q. Okay. Ms. Neda read you the rare
17 conditions. Are you aware of that?

18 A. Yes.

19 Q. Do you have any confusion as a rare side
20 effect?

21 A. Never have I been confused, no.

22 Q. Have you ever had as a rare side effect
23 false beliefs that cannot be changed by facts?

24 A. That's never happened, no.

25 Q. Have you ever had the rare side effect

1 that some people have of seizures?

2 A. Never. No.

3 MR. GORENCE: May I have one second, Your
4 Honor?

5 THE COURT: You may.

6 Q. (By Mr. Gorence) The questions about you
7 having a firearm, even keeping one now. You're a
8 lawful possessor of -- there's nothing that
9 prohibits you by law from having a firearm, is
10 there?

11 A. No, there's not.

12 Q. Okay. You have indicated that you
13 ordinarily carry a gun. And do you carry it openly,
14 or do you have a concealed permit that's part of our
15 state gun regulations?

16 A. New Mexico is an open carry state, and I'm
17 an open carrier.

18 Q. You're familiar with the rules and
19 requirements of having a firearm to be carried
20 openly?

21 A. Fully aware, yes.

22 Q. And the fact you have indicated that
23 although you ordinarily keep a gun, how confident
24 are you that you did not have a gun that day?

25 A. I'm 110 percent positive that I did not

1 have my gun that day.

2 Q. And the reason was what? You indicated
3 but -- you knew you couldn't take it in, up in TA?

4 A. Yes. I knew we were going to be filing
5 that day. I knew it was going to take the better
6 part of three hours, four hours, so I saw no need to
7 carry a firearm that day.

8 Q. Where did you leave your firearm?

9 A. I left it at home.

10 MR. GORENCE: I pass the witness, Your
11 Honor.

12 THE COURT: Thank you, Mr. Gorence.

13 Do you have anything further, Ms. Neda?

14 RECROSS-EXAMINATION

15 BY MS. NEDA:

16 Q. I just -- going back to January 2014 and
17 August 2014 -- first, January 2014, did you not
18 report unprovoked irritability with periods of
19 violence? That was January 2014?

20 A. I'm sorry -- at that period in time, yes,
21 that day I did feel that, yes.

22 Q. All right. And then with respect to
23 August 2014, did you not classify or rate your poor
24 concentration as severe?

25 A. That day, yes.

1 Q. All right.

2 MR. GORENCE: Tell me where you're
3 reading. What page?

4 MS. NEDA: 111.

5 Q. (By Ms. Neda) And on page 112, did you
6 indicate all these problems affect your difficulties
7 pretty much in everything you do?

8 A. In most of the things I do, yes.

9 Q. At least on that day, in August 2014.

10 A. At least on that day, yes.

11 MS. NEDA: All right. No further
12 questions.

13 THE COURT: Thank you, Ms. Neda.

14 Mr. Gorence, do you have anything further?

15 MR. GORENCE: Other than, Your Honor,
16 based on that, I still would -- with these
17 questions -- and I don't mind expanding that because
18 I didn't have that in my O4, I would still move to
19 produce all these records in their entirety.

20 THE COURT: All right. Well, at the
21 present time, I'm excluding the records.

22 All right, Mr. Rodella, you may step down.

23 Is there any reason that Mr. Rodella,
24 Junior, cannot be excused from the proceedings?

25 MR. GORENCE: He can be excused, Your

1 Honor.

2 THE COURT: Ms. Neda?

3 MS. NEDA: No reason.

4 THE COURT: All right. You're excused
5 from the proceedings. Thank you for your testimony.

6 THE WITNESS: Thank you, Your Honor.

7 (End of excerpted testimony of Thomas R.
8 Rodella, Jr.)

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2 STATE OF NEW MEXICO

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4 REPORTER'S CERTIFICATE

5 I, Mary Abernathy Seal, RDR, CRR, CCR, do
6 hereby certify that the foregoing pages constitute a
7 true transcript of excerpted proceedings had before
8 the said Court held in the City of Albuquerque, New
9 Mexico, in the matter therein stated.

10 In testimony whereof, I have hereunto set my
11 hand on this 10th day of November, 2014.

12
13 *Mary A. Seal*

14 Mary Abernathy Seal, RDR, CRR, CCR
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16 NM Certified Court Reporter #69
17 License expires: 12/31/14

18 Date taken: September 25, 2014
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